

## Region II

Immediate Removal Funding and Exemption to Six Month Removal Limit - Request for the Duane Marine Corporation Site, Perth Amboy, New Jersey - ACTION MEMORANDUM

Bruce Sprague  
Response and Prevention Branch, U.S. EPA II

339808



Christopher J. Daggett  
Regional Administrator

THRU: William J. Librizzi, Director  
Emergency and Remedial Response Division

### I. PURPOSE:

#### A. Site Setting/Description

The New Jersey Department of Environmental Protection (NJDEP) has requested a second CERCLA Immediate Removal Action to remove surface contamination at Duane Marine that poses an imminent threat to life and health of the surrounding population. This includes removal and disposal of the contents of six roll-off containers, the contents of any open tanks, and of all the drums at the site. In addition, compatibility testing will be conducted on all the remaining tanks, and tank trailers. If any of these containers are leaking, their contents will be removed pending available funds at the completion of all other activities. The NJDEP is preparing a request for proposal to address remedial activities to be performed at the site. However, a contract is not expected to be awarded for 6 to 9 months. Though EPA has recently installed site security measures at Duane Marine, chronic vandalism including tampering with drums containing hazardous materials, has been observed since these measures were completed. Continued public access to this site, despite the security measures, is the prime reason for a second EPA CERCLA removal action at the site. Additional funding and an exemption from the six month limit or removal actions is requested.

### II. BACKGROUND:

The Duane Marine Corporation site is located at 26

Washington Street in Perth Amboy, Middlesex County, New Jersey (Figure 1). The site directly borders the Arthur Kill, waters the United States. Approximately 3,700 metal 55-gallon drums, two dozen metal tanks, six tankers, three box trailers, and six roll-off dumpsters have been abandoned on the five-acre site (Figure 2).

In addition, two trucks, construction debris, and piles of spent boom and sorbent material are scattered throughout the site.

Duane Marine Corporation was an oil spill cleanup contractor that opened this site for storage, treatment, blending, and reprocessing of waste oils. The NJDEP issued a temporary operating authorization of this facility on May 9, 1978 for acceptance of all of the following waste types: tank bottoms, waste oils, oil sludge, solvents, acids, alkali solutions, and flammable liquids.

The facility was not authorized to accept PCB waste which has been found at the site. On July 7, 1980 a major fire at General Cable in the Perth Amboy Industrial Center (on Washington Street) spread to the Duane Marine facility resulting in the destruction of several buildings, boats, and vehicles. Approximately 2,000 55-gallon drums of waste chemicals were consumed during the fire. Subsequent to the fire, Duane Marine Corporation expressed no interest in continuing operations and abandoned the site.

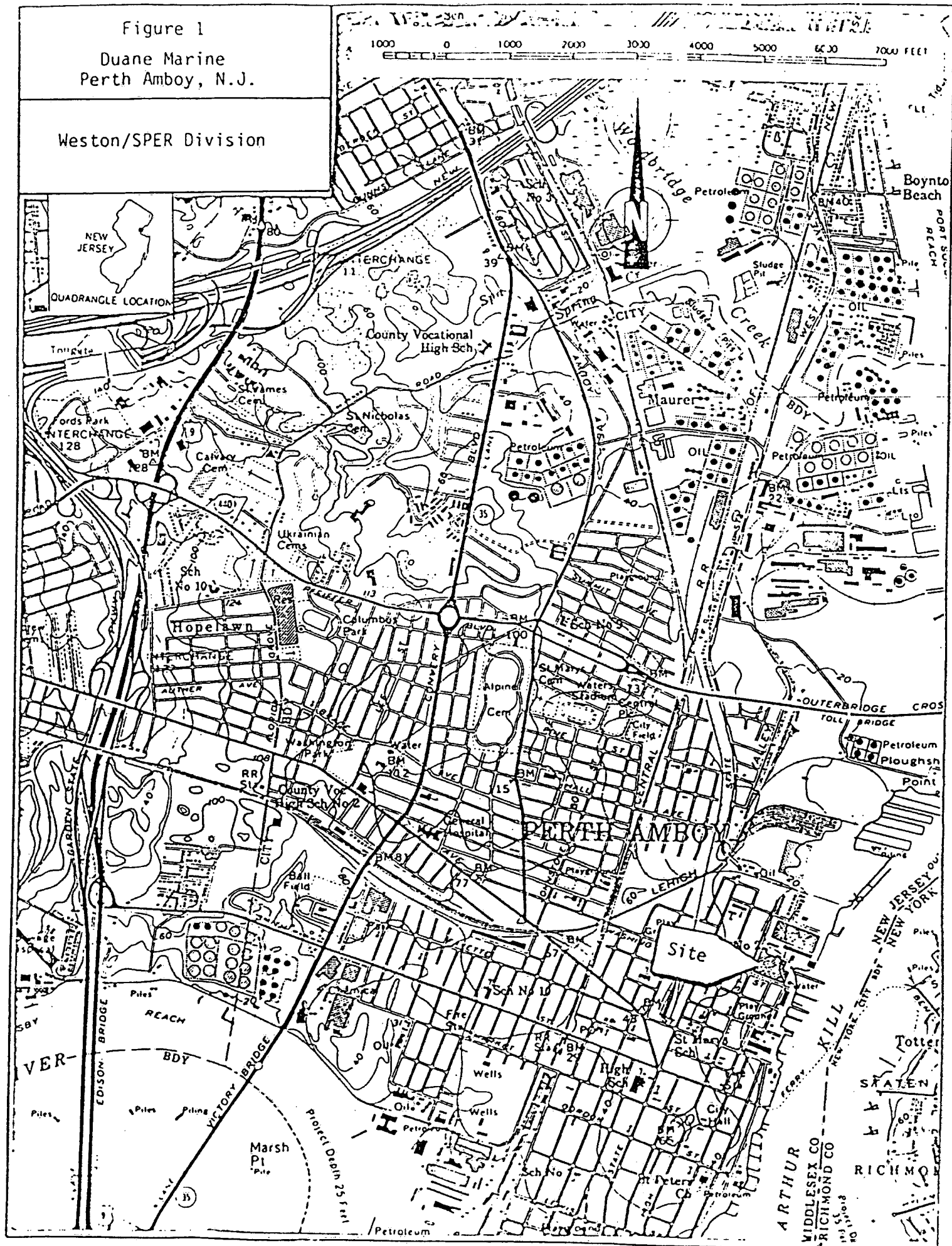
The majority of the approximately 3,700 remaining 55-gallon drums are located in the north to northwest area of the site (Figure 2). These drums are haphazardly stacked in several piles on the asphalt pavement, up to three tiers high and ten deep. Some of the drums in this area are empty, having been consumed by the July 1980 fire. The others in this area appear to contain mostly solid materials and have rusted/corroded such that labeling information is legible on only a few. Some of these drums are bulging and some do not have lids.

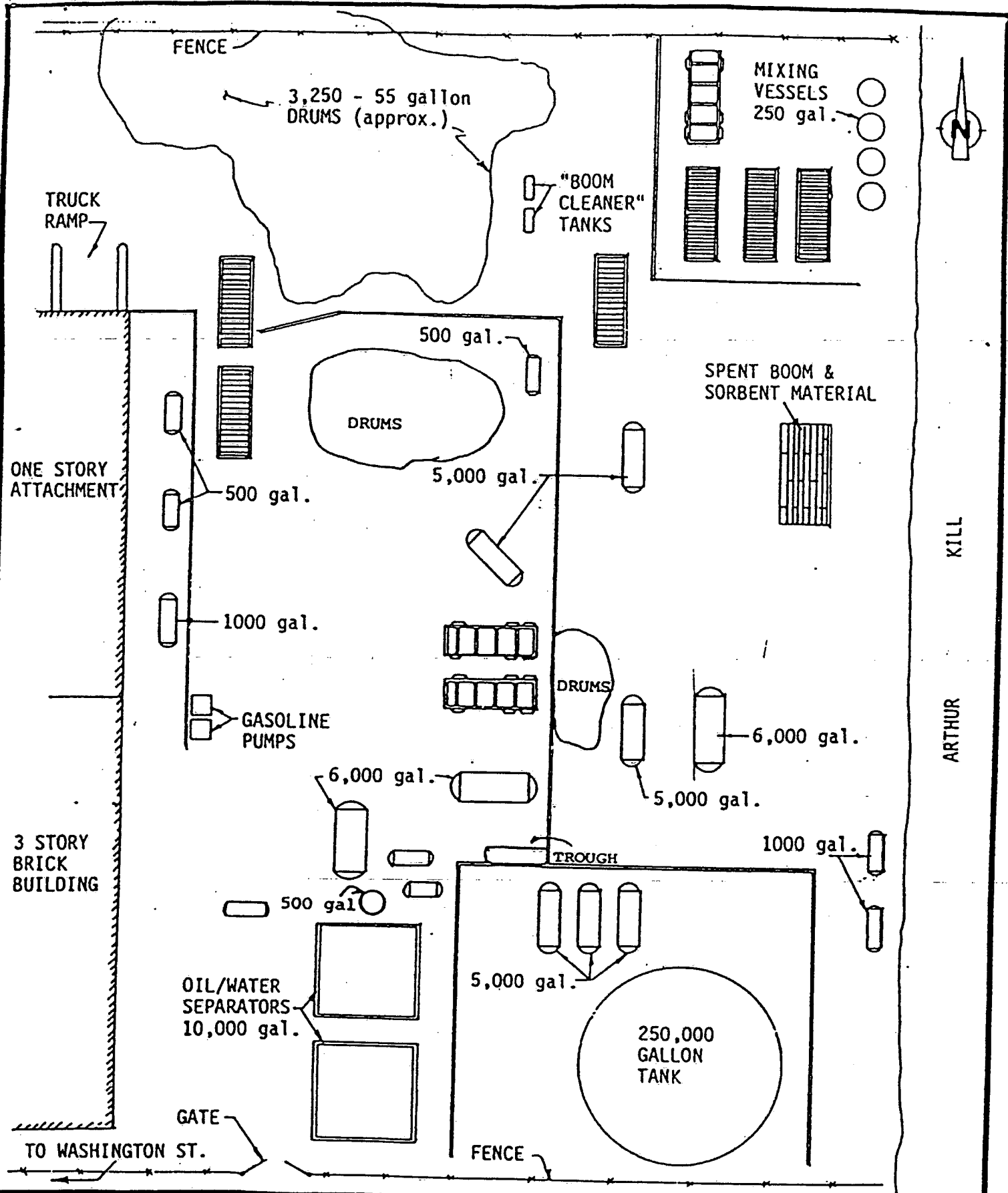
A much smaller drum storage area (approximately 100 drums) is located in the southeastern portion of the site. They are intact but appear to have been tampered with between August and September 1984. There are no containment dikes around this drum storage area.

Figure 1

Duane Marine  
Perth Amboy, N.J.

Weston/SPER Division








**WESTEN**

SPILL PREVENTION &  
EMERGENCY RESPONSE DIVISION

In association with  
ICF, Inc., Jacobs Engineering, Inc., & Tetra Tech, Inc.

FIGURE 2  
DUANE MARINE  
SITE PLAN

LEGEND:  20 CY DUMPSTER  
 BOX TRAILER  
 TANK

A 250,000 gallon liquid storage tank is located in the southeastern portion of the site. This steel tank is approximately thirty feet high and sits on a concrete foundation. An NJDEP sampling program conducted on June 12, 1981, showed that this tank had a PCB concentration of 176 ppm. The soil surrounding this tank is stained with an oily material from previous leakage. The tank wall is punctured on the northern side, accounting for at least part of the soil contamination. This puncture may have resulted from bullet holes. In 1982, NJDEP measured the volume of the contents of the tank to be approximately 6 feet from the top of the tank. On July 13, 1984 NJDEP measured the contents of the tanks to be approximately 27 feet from the top of the tank. The reason for this disparity is uncertain at this time.

Adjacent to the liquid storage tank are an additional three 5,000 gallon waste oil treatment tanks connected in series. All four tanks are enclosed by a dike that is constructed of reinforced concrete walls. The walls are 6 inches thick, 12 feet high and 80 feet long.

The six roll-off dumpsters (i.e., 30 cubic yards each) contain solid and/or sludge like materials. The three uncovered roll-off containers were covered with plastic tarps during EPA's first Immediate Removal Action conducted in July 1984. Also, one roll-off, where the rear door had opened and some of the contents had spilled out, was resealed at that time.

The two oil/water separator tanks (i.e., 10,000 gallons each) are located adjacent to the gate entrance. They were covered with tarps, although there is evidence of oil leakage/spillage on the asphalt pavement.

Six tankers are also present on site. Three tanks are of 5,000 gallon capacity and the other three are of 6,000 gallon capacity. At least two of these tankers have leaked in the past with no means of containment present.

There are three box trailers on site, one of which has been badly damaged by a fire that was suspected to be arson.

There are fifteen small tanks located throughout the site, the largest being of 1,000 gallon capacity. Several of these tanks are rusted/corroded and a few contain what

appear to be bullet holes.

The site is located in a heavily populated, densely industrialized area. A July 1984 Immediate Removal Action by EPA under CERCLA addressed the vandalism problem by repairing the fence and boarding up first and second floor windows (blocking access to vandals entering through the dangerously deteriorated building). This was an interim measure until NJDEP could act to remove hazardous substances from this site. Repeated vandalism continues as drums appear to have been tampered with between August and September 1984. This increases the threat to human health via direct contact with the hazardous materials despite the repaired security measures.

PCB contaminated oil seeped from the Duane Marine shoreline in small quantities directly into the Arthur Kill on July 12, 1984. A boom is still in place. During the July 1984 Immediate Removal Action, a trenching operation determined that there is oil floating on the water table. The largest concentrations of oil were observed between the seep and the northeast corner of the diked area surrounding the 250,000 gallon tank. The source of the oil was believed to be from buried crushed containers coated with heavy oil found during the excavation process.

The site is within 0.2 miles of a residence. Approximately 5,000 people live within 1 mile of the site, including children. Perth Amboy has a population of 39,000. Directly across from the site on Washington Street is a large propane tank enclosed by a chain-link fence. The Perth Amboy Dry Dock Company is adjacent to the site on Front Street.

#### B. Quantity and Types of Substances Present

There is an unknown quantity of hazardous materials on site. A sampling program of various tanks conducted by the NJDEP in June and August 1981 revealed the presence of the following hazardous substances:

<u>Substance</u>	<u>Statutory Source For Designation Under CERCLA</u>
Bromoform	CWA, Section 307(a)
Dichlorobromomethane	CWA, Section 307(a)
Ethylbenzene	CWA, Section 311(b)(4)
Tetrachloroethylene	CWA, Section 307(a)

<u>Substance</u>	<u>Statutory Source For Designation Under CERCLA</u>
Trichloroethylene	CWA, Section 311(b)(4)
Total-Xylene	CWA, Section 311(b)(4)
PCB/1254	CWA, Section 311(b)(4)
PCB/1221	CWA, Section 311(b)(4)
PCB/1216	CWA, Section 311(b)(4)
Toluene	CWA, Section 311(b)(4)
Chlorobenzene	CWA, Section 311(b)(4)
1,2-Dichloroethane	CWA, Section 307(a)
1,2-Dichloropropane	CWA, Section 307(a)
Trichloroethane	CWA, Section 307(a)

The NJDEP also obtained samples from the six roll-off dumpsters in September 1981. The following hazardous substances were identified:

<u>Substance</u>	<u>Statutory Source For Designation Under CERCLA</u>
Benzene	CWA, Section 311(b)(4)
Toluene	CWA, Section 311(b)(4)
Ethylbenzene	CWA, Section 311(b)(4)
Total-Xylene	CWA, Section 311(b)(4)
Dimethyl phthalate	CWA, Section 307(a)
Butylbenzyl phthalate	CWA, Section 307(a)
Methylene chloride	CWA, Section 307(a)
1,1,1-Trichloroethane	CWA, Section 307(a)
Tetrachloroethylene	CWA, Section 307(a)
Phenol	CWA, Section 311(b)(4)
Arsenic	RCRA, Section 3001
Chromium	RCRA, Section 3001
Lead	RCRA, Section 3001
Silver	RCRA, Section 3001
Selenium	RCRA, Section 3001

The hazardous substances identified at Duane Marine exhibit a range of toxic effects\* including:

Carcinogenicity (PCB's, 1,2 dichloroethane, trichloroethane, benzene, butylbenzyl phthalate, methylene chloride, arsenic, and chromium)

Teratogenicity, (dimethyl phthalate, butylbenzyl phthalate, and chromium)

Mutagenicity (chromium)

Kidney damage (xylene, trichloroethane, methylene chloride, phenol, selenium, and tetrachloroethylene)

Liver damage (xylene, chlorobenzene, trichloroethylene, methylene chloride, phenol, selenium, arsenic, tetrachloroethylene, and trichloroethane)

Heart damage (selenium)

Hematopoietic (blood forming system) damage (benzene and lead)

Circulatory system damage (arsenic)

Intestinal damage (arsenic)

Neurological damage (trichloroethylene and arsenic)

Anemia (benzene and lead)

Narcotic symptoms (chlorobenzene, dichloroethane, trichloroethane, methylene chloride, bromoform, tetrachloroethylene, trichloroethylene, 1,2-dichloropropane, and dichlorobromomethane)

Irritants - respiratory, dermal, eye and/or mucous membrane: xylene, PCB's, toluene, chlorobenzene, 1,2-dichloroethane, 1,2-dichloropropane, dimethyl phthalate, methylene chloride, phenol, selenium, arsenic, chromium, bromoform, ethylbenzene, tetrachloroethylene, and trichloroethylene)

\*References:

- 1) Intermedia Priority Pollutant Guidance Documents, U.S. EPA, 1983.
- 2) Occupational Health Guidelines For Chemical Hazards, U.S. Department of Health and Human Services/U.S. Department of Labor, 1981.

Very few of the drums have manufacturer or product labels. Product labels noted include waste oils, epoxy/adhesives, sodium sulfhydrate, and caustic sodium hydroxide. Manufacturers labels include Dow Chemicals, Chevron, Anchor Chemical Company, and G. Whitfield Richards.

C. This site is not on the National Priorities List.



### III. THREAT:

#### A. Threat of Exposure to Public or the Environment

The threat of exposure to the public or the environment is multifold. Despite the site security measures installed in July 1984, evidence of vandalism continues to be observed at the site. EPA OSC, Bruce Sprague, has observed signs that drums containing hazardous materials have been tampered with since EPA completed the site security measures on September 12, 1984. Minor repairs to the security measures have been performed (replacing window boards) since the removal action was completed. This continued site entry by individuals permits them to come in direct contact with hazardous substances as indicated above.

The potential for fire and subsequent release of toxic fumes is also of concern. A fire involving an abandoned office trailer on-site in September 1983 was considered to be of suspicious nature. Remnants of fireworks were found scattered on-site on July 13, 1984. The potential for arson still exists.

As secondary containment measures are virtually non-existent, any run-off from a spill/fire will flow into the Arthur Kill, waters of the United States. Although this waterway is not of high quality, local residents do use it for recreational purposes in this area, including boating and fishing.

#### B. Evidence of Extent of Release

The present evidence of release includes the obvious oil staining and contaminated soil surrounding the 250,000 gallon liquid storage tank. The tank wall is punctured (possibly from bullets) on the northern side accounting for some leakage. In addition, tanker leakage has been noted from discoloration/staining of soil on-site. The NJDEP reported that rainwater has caused displacement of material in the drum storage area with leachate flowing from this area to the Arthur Kill.

Additionally, on July 12, 1984, an oil spill was reported to be entering the Arthur Kill from several seeps along the edge of the site. This oil was determined to contain up to 14 ppm PCB's by USCG sampling. During the July 1984 Immediate Removal Action a trenching operation was

conducted and oil was observed floating on the water table. The largest concentrations were observed between the seep and the northeast corner of the dike surrounding the 250,000 gallon tank. Buried crushed containers coated with heavy oil found during the excavation was believed to have been the source of the spill.

#### C. Previous Actions To Abate Threat

The NJDEP collected samples for volatile organics analysis from eleven tanks/tankers on June 12, 1981 and also obtained samples for PCB analysis from thirteen tanks/tankers on August 11, 1981. The six roll-off dumpsters were sampled by NJDEP on September 2, 1981 for priority pollutant analysis. Two additional tanks were sampled for PCB analysis by NJDEP on November 19, 1981. Hazardous substances, including PCB's, were found as previously indicated on pages 4 and 5.

In August 1981, New Jersey Spill Fund monies were utilized to secure the site. Repeated vandalism since then and continued deterioration of waste containers resulted in a threat to human health from direct contact. There is also the potential release of toxic fumes and contaminated run-off from a fire.

In July 1984, NJDEP requested that EPA repair site security as they were unable to act at the time. This action was completed on September 12, 1984 at a cost of approximately \$29,000.

D. The NJDEP is issuing a request for proposal to cover the remedial actions to be taken at the site. A contract is not expected to be awarded 6 to 9 months from now. They have concurred that EPA should remove the surface contamination that poses an imminent threat to the public at this time.

E. Authority to exceed the six month CERCLA limit on removal actions is being requested. The conditions at the site meet the criteria specified in CERCLA Section 104(c)(1) as follows:

- 1) Continued response actions are immediately required to prevent, limit or mitigate an emergency.
- 2) There is an immediate risk to the public health and welfare and the environment.

- 3) Such assistance will not otherwise be provided on a timely basis.

Items 1 and 2 are substantiated by the continued vandalism observed at the site, the quantity of wastes, and the number of hazardous materials found at the site. The site is abandoned, and thus not controlled. Remnants of fireworks have been observed on site when the site is known to contain flammable materials as can be seen in the list of hazardous substances found at the site during the NJDEP 1981 sampling program. Item 3 is substantiated by the fact that potential responsible parties have not acted to remove the hazardous materials at the site. The NJDEP has not been able to remove these hazardous materials to date either. The NJDEP does not anticipate any action on their part at the site for 6-9 months when a contract for remedial actions at the site is expected to be awarded.

#### IV. ENFORCEMENT:

(See attachment).

#### V. PROPOSED PROJECT AND COSTS:

##### A. The Objectives of this Removal Action are as Follows:

- 1) Remove the contents of the 6 roll-off containers.
- 2) Empty all open vessels (two 10,000 gallon oil/water separator tanks, one 500 gallon tank, one trough containing approximately 100 gallons of liquid) and one 5,000 gallon tank in the diked area.
- 3) Remove all drums (empty and full). The removal of the empty drums will create enough space to allow staging and sampling of the full drums.
- 4) The liquid contents of the other closed, non leaking tanks on-site will not be removed. All valves on the tanks will be locked to remove the threat of vandalism. The potential for arson involving these tanks is minimal.

This project will be approached in a phased manner to avoid unnecessary, costly mobilization/demobilization of the ERCS contractor. The phases are described as described below:

Phase I

Sampling - to be conducted by the ERCS Contractor.

RCRA disposal characteristics on the following:

Number of Samples

- 6 - Roll-off containers
  - 2 - 10,000 gallon oil/water separator tanks
  - 1 - 5,000 gallon tank (in diked area)
  - 2 - 2 phases of 250,000 gallon tank
- 11

Compatibility tests on the following:

Number of Samples

- 2 - 10,000 gallon oil water separator tanks
  - 1 - 5,000 gallon tank (in diked area)
  - 1 - trough
  - 1 - 500 gallon tank
- 5

Water content and fuel value on the following:

Number of Samples

- 3 - underground gas/diesel tanks

Priority pollutant analysis on the following:

Number of Samples

- 2 - phases of the 250,000 gallon tank

Disposal will be arranged for the roll-off containers and all tanks tested (except the 250,000 gallon tank) upon return of the analysis results.

Phase II

Crush all empty drums and arrange for disposal.

Stage all full drums for sampling.

Phase III

Compatibility testing for all drums and tanks that were not tested during Phase I sampling.

RCRA characteristic testing on all bulked loads of drum contents (at an off-site laboratory).

Disposal of all bulked loads of drummed materials will be arranged upon return of the analysis results.

B. Response Cost Estimate:

1) Phase I Sampling:

a) RCRA characteristics testing - 11 samples @ \$150 each	\$1,650
b) Compatibility testing - 5 samples @ \$200 each	1,000
c) Priority pollutant testing - 2 samples @ \$1,200 each	2,400
d) Water content and fuel value - 3 samples @ \$100 each	\$ 300
e) Labor and materials	<u>500</u>
f) SUBTOTAL	\$5,850

2) Empty Drum Removal:

Assumption: 2,500 empty drums on-site

a) Bulking and crushing empty drums - 2,500 drums @ \$15 each	\$37,500
b) Disposal	
1) 312 cubic yards (8 crushed drums per cubic yard) @ \$20 per cubic yard	6,240
2) Transportation - four 20 cubic yard dump trucks @ \$1,600 each	6,400

3) Drop-off charge - 4  
truck loads @ \$225 each 900

c) SUBTOTAL \$51,040

3) Compatibility Testing and Documentation:

Assumptions: Quantity of materials to be tested  
is:

1200 drums

14 tanks (liquid and sludge)

6 tank trailers (liquid and sludge)

Total number of samples = 1240. A substantial  
reduction in analytical costs may be achievable  
by using a mobile on-site laboratory.

a) Compatibility testing/PCB  
screening - 1240 samples  
@ \$200 each \$248,000

b) SUBTOTAL \$248,000

4) Full Drum Removal:

Assumption: Quantity of material on-site equals  
1,200 full drums of which 10% are flammable  
liquids. The remaining drums are thought to be  
non-flammable solids as they have been involved  
in a fire. This includes approximately thirty  
5 gallon pails and drums located within the  
building.

a) Bulking material for disposal  
1,200 drum @ \$200 each \$240,000

b) Disposal

1) Non-flammable solids

a) 294 tons (1 cubic yard =  
approximately 1 ton) @  
\$75 per ton 22,050

b) Transportation -  
15 roll-off containers  
(20 cubic yards per  
roll-off) @ \$1,125  
each 16,875

c)	Drop off charge - 15 roll-off containers @ \$225 each	3,375
2)	Flammable liquids	
a)	6,600 gallons @ \$2 per gallon	13,200
b)	2 tank trailers @ \$1,440 each	2,880
c)	Drop off charge - 2 loads at \$225 each	450
3)	RCRA tests - 17 samples @ \$150 per sample	2,550
4)	SUBTOTAL	\$301,380

5) Removal Of Roll-Off Contents:

Assumption: Quantity of material on-site equals 6 full 30 cubic yard containers for a total of 180 cubic yards. The roll-off containers are not road worthy. The contents of the roll-off containers are considered to be non-flammable solids.

a)	Disposal	
1)	180 tons (1 cubic yard = approximately 1 ton) @ \$75 per ton	\$13,500
2)	Three 20 cubic yard dump trucks for 2 weeks @ \$1,600 per week	9,600
3)	Drop off charge - 9 loads @ \$225 each	2,025
4)	SUBTOTAL	\$25,125

6) Removal Of Open Tank Contents:

Assumption: Quantity of material to be removed is:

20,000 gallons from the two 10,000  
gallon oil/water separator tanks

5,000 gallons from one tank within  
the diked area

500 gallons from one open 500 gallon  
tank

100 gallons from an open trough

This is a total of 25,600 gallons. The  
contents of these tanks are considered to be  
flammable liquids

a)	Labor and materials - 25,600 gallon @ 20¢ per gallon	\$5,120
b)	Disposal - 25,600 gallons at \$2 per gallon	\$ 51,200
c)	Transportation - 2 tank trucks @ \$1,440 each/ per week for 2 weeks	5,760
d)	Drop-off charge - 5 loads @ \$225 per load	1,125
e)	SUBTOTAL	<u>\$63,205</u>

7) Disposal Of Contents In Gasoline/Diesel  
Tanks:

Assumption: The contents of 3 fuel tanks contain  
2,000 gallons of fuel.

Depending on the results of the fuel value and  
water content analysis the fuel can be removed  
at no cost (if low quality) or at a possible  
credit of 5-10¢ per gallon, if high quality.

No Cost

8) Remove Liquid Contents Of The Closed Tanks  
On-Site:

Assumption: Following a visual inspection of  
the closed tanks on-site, only the leaking  
tanks/tank trailers will be addressed at this  
time. For the purposes of this estimate the  
worst case of all tanks and tank trailers leaking  
is presumed. The quantity of materials to be  
removed is as follows:



Six tank trailers 14,000 gallons

Eight 500-gallon tanks 1,000 gallons

This is a total of 15,000 gallons. The material in these tanks is expected to be flammable liquids based on NJDEP sample analysis results.

a) Labor and materials 15,000 gallons @ 20¢ per gallon	\$ 3,000
b) Disposal - 15,000 gallons @ \$2 gallon	30,000
c) Transportation - 2 tank trucks @ \$1,440 each	\$ 2,880
d) Drop off-charges 3 loads @ \$225 per load	<u>675</u>
e) SUBTOTAL	\$36,555

9) Decontamination Of Empty Containers:

a) Labor and materials	\$5,000
b) Steam generator for one week @ \$600/week	<u>600</u>
c) SUBTOTAL	\$5,600

10) Additional Project Costs:

a) Command Post - 6 months @ \$1,050 per month	6,300
b) Equipment/storage trailer - 6 months @ \$450 per month	\$ 2,700
c) Lab trailer 1 month @ \$3,713 per month	<u>3,713</u>
d) SUBTOTAL	\$12,713

Summary Of Estimated Costs For The Proposed Response Action:

1) Phase I Sampling	\$5,850
2) Empty Drum Removal	51,040
3) Compatibility Testing and Documentation	248,000
4) Full Drum Removal	301,380
5) Removal of Roll-Off Contents	25,125
6) Removal of Open Tank Contents	63,205
7) Disposal of Diesel/Gasoline	No Cost
8) Remove Liquid Contents of Leaking Closed Tanks	36,555
9) Decon Empty Containers	5,600
10) Additional Project Costs	12,713
11) SUBTOTAL	\$749,468
12) 15% Contingency	112,420
13) TAT Costs	35,000
14) Intramural Costs (HQ and Region)	35,000
PROPOSED REMOVAL ACTION TOTAL	\$931,888

MONIES SPENT TO DATE ON PREVIOUS REMOVAL ACTION	29,000
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TOTAL	960,888
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ROUNDED TOTAL	\$961,000
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C. Project Schedule

It is estimated that the entire removal action will take 4-6 months.

VI. REGIONAL RECOMMENDATION:

Conditions at the Duane Marine Corporation site meet the NCP Section 300.65 criteria for an immediate removal (i.e., it presents an immediate and significant risk of harm to human life and health because of the potential for direct human exposure to acutely toxic substances and the potential for fire).

I recommend your approval of the immediate removal request with an exemption to the six month time limit for a removal action, as the conditions at the site meet the criteria specified in CERCLA Section 104(c)(1), (i.e. continued failure of responsible parties to take adequate action following issuance of appropriate notice or orders pursuant to the CERCLA Act, continued response actions are immediately required to prevent limit or

mitigate the emergency and/or there is an imminent risk of public health and welfare or the environment). A formal effort will first be made to order responsible parties to act before utilizing Federal Trust Fund monies authorized herein. Your authority to approve these requests is derived from Deputy Administrator Alvin Alm's April 16, 1984 Delegation 14-1-A. The estimated total project costs are \$961,000 of which \$861,000 are for mitigation contractor costs. A total of \$29,000, already spent at the site for past immediate removal measures, is contained in this ceiling.

Please indicate your approval or disapproval of this request by signing below and returning this memorandum to me. This approval also authorizes an exemption to the six month time limit for removal actions at this site.

Approve: \_\_\_\_\_

Date: \_\_\_\_\_

Disapprove: \_\_\_\_\_

Date: \_\_\_\_\_

**Attachments**

cc: J. Marshall, 20EP  
W. Librizzi, 2ERR  
R. Ogg, 2ERR-SIC  
J. Frisco, 2ERR-NJRA  
F. Rubel, 2ERR-RP  
W. Mugdan, 20RC-WTS  
R. Gherardi, 20PM-FIN  
P. Piyon, PM-214F (EXPRESS MAIL)  
J. Stanton, WH-548B  
W. Hedeman, WH-548  
J. Berkowitz, NJDEP

DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF LAW

MEMORANDUM

TO: Edwin Lieu  
Hazardous Site Mitigation

FROM: Ronald P. Heksch, DAG

DATE: March 27, 1984

SUBJECT: Duane Marine Corp.

I am writing to formally advise you that the above matter has been reassigned to me for handling. It is my understanding from discussions we have had that DEP wants to conduct an immediate cleanup of the Duane Marine facility in Perth Amboy with money from the Spill Fund. Given the failure of Duane Marine to act responsibly and take all action necessary to clean up its property despite legal action brought by this office and the City of Perth Amboy, I would recommend that the State-funded cleanup commence as soon as possible and that we seek treble damages from the company and its owners/operators. This being the case a Spill Fund ten-day directive letter should be sent to Duane Marine, Edward Leccareaux and any other owners or operators of the facility we know about. Thereafter, if, as expected, no response is forthcoming cleanup activities can commence. Please send me copies of the directive letters for my file and keep me advised of DEP's cleanup activities.

It is important to note that the contractor hired to do the cleanup work must understand that he will most likely have to testify in court. He should therefore be advised to carefully document all his actions and be able to fully justify his costs. Furthermore, he must be able to provide expert testimony related to the hazardous conditions at the site and the need for cleanup. Additionally, during the course of cleanup, the contractor and/or DEP should gather evidence to assist the enforcement case. This should include, but not be limited to, gathering information related to the illegal handling and/or disposal of hazardous waste at the site; gathering information related to the generators of the wastes found at the site; linking specific wastes found to specific generators, if possible, and a review of all available records related to the Duane Marine operations at the property in question.

Finally, you have asked for an outline of the State's enforcement activities to date. The following is a legal history of this case based on my review of the file. In April of 1979 Duane Marine's temporary operating authorization from DEP expired. On or about May 23, 1979 the City of Perth Amboy brought suit against the company seeking to have it cease operating. On or about June 4, 1979 DEP intervened in the aforementioned law suit. On July 31, 1979 a consent order was entered into wherein Duane Marine was permitted to continue operating provided that it would take certain action to improve its operations and begin handling the wastes it stored in an environmentally sound fashion and in full compliance with the law. Duane Marine

Edwin Lieu

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March 27, 1984

failed to comply with the terms and conditions of the consent order in question. This was true despite numerous applications by DEP to the court to enforce the terms of the consent order.

On July 7, 1980, as you know, there was a fire at the Duane Marine facility which substantially destroyed the operations there. On July 18, 1980 the parties appeared before the court at which time Duane Marine's attorney represented to the court that the company had no interest in continuing operations as a special waste facility on the premises in question. The court ordered Duane Marine to undertake an immediate cleanup of all the remaining drums and rubble at the site. The company failed to comply with this order as well. On July 31, 1981 our office filed an application with the court seeking compliance with the July 18, 1980 court order. The State's application was made returnable in August, however, negotiations followed between counsel for the State and Duane Marine's attorney and the return date of the State's motion was adjourned indefinitely. Needless to say, the negotiations between the parties proved fruitless and Duane Marine has still not complied with previous orders of the court to clean up its property.

Again, in light of the history of this case and DEP's desire to conduct cleanup of the Duane Marine property as soon as possible, it is my opinion that a ten-day directive letter should be sent to the company and its owners and/or operators immediately. Thereafter, a State-funded cleanup should take place, after which we will sue the company and its principals for three times the cost of cleanup.

If for some reason DEP is unable to effectuate a cleanup within the next few months, please let me know so that I can pursue other remedies we might have against Duane Marine.

If you need any further information concerning this matter or require copies of the court papers, let me know.

  
R.P.H.

RPH/bf

cc: Lawrence E. Stanley, DAG